

**Assembly Bill 347 (Huff)**  
**Criminal penalties under the PRA**  
**Version: Introduced February 11, 2005**  
**Status: In Assembly Elections Committee**

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**Summary**

Existing law imposes administrative, civil, or criminal penalties for certain violations of the Political Reform Act (PRA). Currently, the maximum sentence for a criminal violation is a misdemeanor punishable by imprisonment in a county jail for no more than 6 months. Criminal violations may only be prosecuted by the Attorney General or local prosecutor. This bill would increase the severity of the maximum penalty to a misdemeanor or felony, punishable by imprisonment in a county jail for no more than one year, or by 16 months, 2 years, or 3 years in the state prison.

**Recommendation**

Staff recommends the Commission adopt a position of “support.”

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**Background**

Section 91000(a) of the PRA provides that a person who knowingly or willfully violates any provision of the PRA is guilty of a misdemeanor. Because the misdemeanor under the PRA has no specified punishment, the maximum sentence for a person convicted of a misdemeanor is 6 months in a county jail, plus any additional fine.

This bill amends section 91000 (a) by replacing “misdemeanor” with “public offense punishable by imprisonment in a county jail for no more than one year or in the state prison.” As a result, the penalty for any violation of the PRA may consist of either a misdemeanor, specified as punishable by imprisonment in a county jail for no more than one year, or a felony. A felony is generally punishable by imprisonment in a state prison for 16 months, 2 years, or 3 years.

**Analysis**

This bill would increase the maximum criminal penalty for violations of the PRA. Only the Attorney General (AG) and local prosecutors have the authority to pursue criminal punishment for such violations. This bill would give an AG or local prosecutor the power to determine whether to charge a person with a misdemeanor or felony – whether the person failed to file their statement of economic interests or laundered money into a candidate’s campaign – and the level of punishment to impose. A felony charge could be brought against a person for any violation of the PRA, as there is no distinction between violations and their level of punishment.

Allowing stricter penalties will likely encourage prosecution of PRA violators. Under current law, prosecutors often decide not to pursue criminal charges against a PRA violator because they cannot bring charges beyond a misdemeanor. Thus, by allowing a felony option, more DA’s may decide to pursue PRA violators, resulting in more criminal prosecutions of the PRA. While this may not be a direct increase in FPPC staff workload, DA’s may seek guidance from FPPC

staff and may indirectly require minimal additional FPPC resources. This workload may be offset by cases the Commission no longer pursues because they are being prosecuted criminally.

A stricter criminal penalty may also discourage PRA violators from admitting guilt in civil or administrative settlement agreements because the admission may be used in a more serious criminal prosecution. These situations are not very common, so the impact on the Commission would likely be minimal.

**Fiscal Impact**

This bill is unlikely to incur more than nominal costs for the Commission.